

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

April 8, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Kauai

Mutual Cancellation of General Lease No. S-5479, Tatsuo and Elsie Nishi and Nikola and Claudia Nishi, Lessees, Waimea Valley, Waimea, Kauai, Tax Map Key: (4) 1-5-03: 01.

APPLICANT:

Tatsuo and Elsie Nishi, husband and wife as tenants in the entirety and Nikola and Claudia Nishi, husband and wife as tenants in the entirety.

LEGAL REFERENCE:

Section 171-6, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government Remnant of the Ili of Waiahole, situated at Waimea Valley, Waimea, Kauai, identified by Tax Map Key: (4) 1-5-03: 01, as shown on the attached map labeled Exhibit A.

AREA:

11.66 acres, more or less.

ZONING:

| | |
|--------------------------|------------------------------|
| State Land Use District: | Conservation and Agriculture |
| County of Kauai CZO: | Agriculture |

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Diversified Agricultural purposes.

LEASE TERM:

Fifteen (15) years

COMMENCEMENT DATE:

August 31, 1995 and expires on August 30, 2010

ANNUAL RENT:

\$1,100 per annum or 3% of gross receipts whichever is greater.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

Last rental reopening conducted on August 31, 2005.

PERFORMANCE BOND:

Twice the annual rental amount.

REMARKS:

A public auction was held on August 31, 1995. The successful bidder was Tatsuo and Elsie Nishi. General Lease No. S-5479 was issued for a term of fifteen years, commencing on August 31, 1995 and expiring on August 30, 2010.

On September 13, 1996, Item D-22, the Land Board consent to the assignment of General lease No. S-5479 from Tatsuo and Elsie Nishi to Tatsuo and Elsie Nishi and Nikola and Claudia Nishi. The Nishi's wanted their son and his wife added to the lease.

On February 10, 2006, Item D-1, the Land Board approved to recommend to the Governor a set-aside to the Division of Forestry & Wildlife (DOFAW) for Addition to Puu Ka Pele Forest Reserve at Waimea covering approximately 9,216 acres. These lands surround General Lease No. S-5479. Unfortunately, General Lease No. S-5479 was not

included because the lease character of use is not consistent with DOFAW's program mission. Eventually, when this lease expires, with Land Board approval, the lands will be turned over to DOFAW.

Staff informed Ms. Nishi. In a letter dated February 29, 2010, Ms. Nishi explained that as of January 2010 they have vacated the State property and they would like to cancel the lease as of March 2010. It will be difficult to start anything since the property will revert back to the State in October 2010. (see Exhibit B).

A review of the file indicates: Rent is paid to February 28, 2010. Insurance expires on November 30, 2010. Surety bond expires on December 18, 2010.

Staff has no objections to the mutual cancellation request.

RECOMMENDATION: That the Board:

1. Authorize the mutual cancellation of General Lease No. S-5479 to Tatsuo and Elsie Nishi, and Nikola and Claudia Nishi, Lessees, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein, and further subject to the following:
 - A. The standard terms and conditions of the most current mutual cancellation lease document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


for Marvin Mikasa
Land Agent

APPROVED FOR SUBMITTAL:

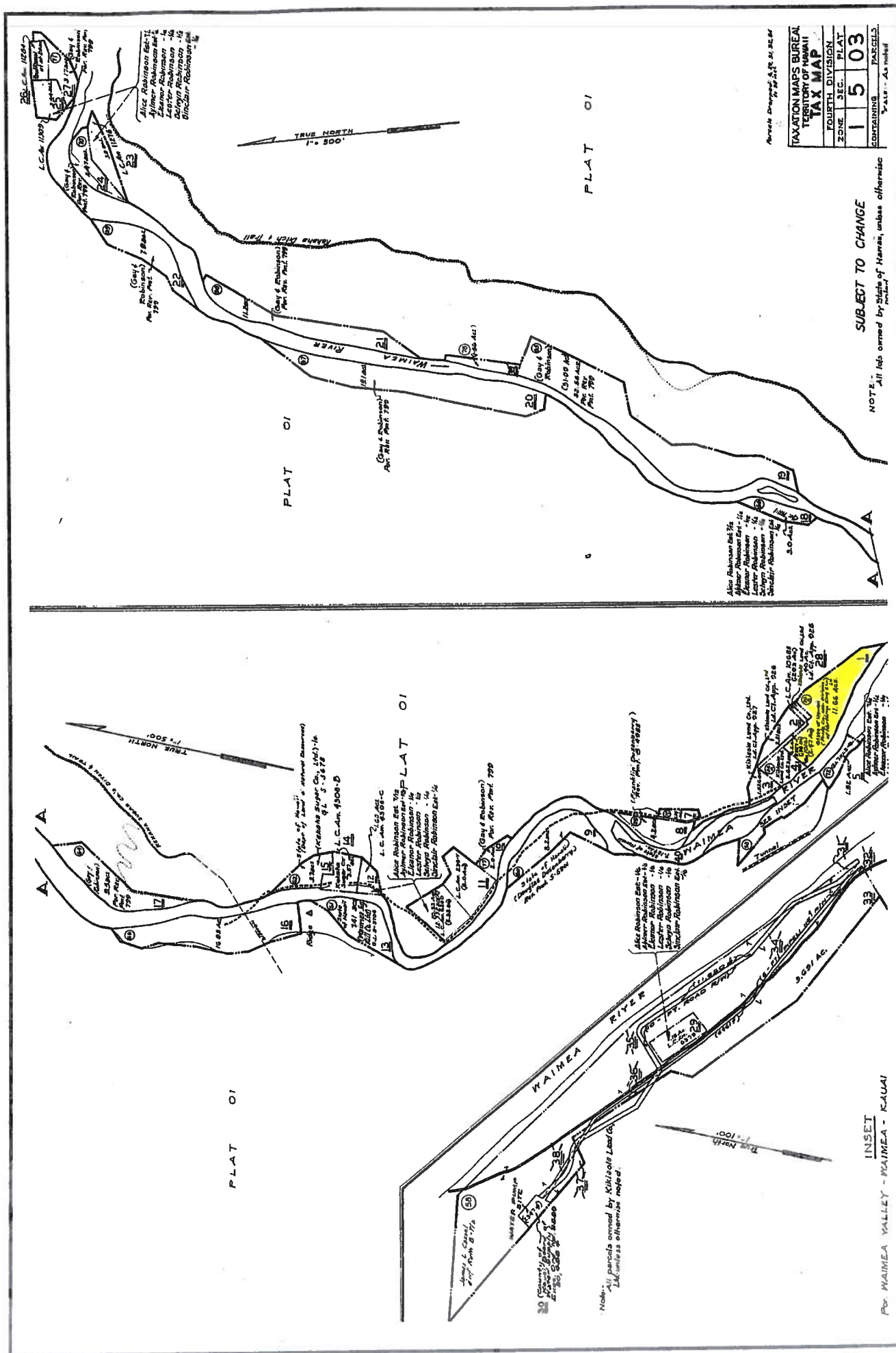


Laura H. Thielen, Chairperson 

PROPERTY LOCATION MAP

Fourth Division, Tax Map Key 1-5-03, Parcel 01

Waimea, Kauai, Hawaii



INSET
FOR WAIMEA VALLEY - WAIMEA - KAUAI

NOTE - All Ids owned by State of Hawaii, unless noted

| | | |
|---|------|-------|
| TAXATION MAPS BUREAU TERRITORY OF HAWAII TAX MAP | | |
| FOURTH DIVISION | | |
| ZONE | SEC. | PLAT |
| 1 | 5 | 03 |
| CONTAINING | | PAGES |

EXHIBT "A"

Department Of Land and Natural Resources

P.O Box 621

Honolulu, Hawaii 96809-0621

February 29, 2010

Dear Tommy Oi,

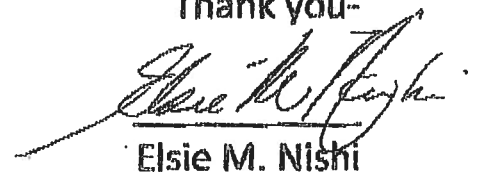
I'm writing to you, in reference of lease # Doc.No. 915479/C-162043 located in Waimea Valley. The Lease will end in October of this year 2010. This lease has been paid up to march of this year.

January 2010 we have vacated this property, we will go back to recheck the area. Whatever was there before we started will remain there, and I would like to cancel this lease as of March 2010.

I find it cumbersome to start anything, since the property will revert back to the state in October 2010 of this year.

Thank you for all your help thorough the years.

Thank you-



Elsie M. Nishi

EXHIBIT "B"